



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced	04/01/04	Bill No:	SCA 21
Tax:	Bradley-Burns Local	Author:	Torlakson and Johnson
Board Position:		Related Bills:	SB1774 (Johnson, et al) SCA 22 (Johnson, et al) AB 3105 (Campbell, et al) ACA 30 (Steinberg, et al)

BILL SUMMARY

This Constitutional Amendment would, among other things, enact the Local Taxpayers and Public Safety Protection Act to require statewide voter approval for any legislative measure that would, as specified, affect the revenue streams to local governments.

Although this bill affects property tax and Bradley-Burns local tax, this analysis will only discuss the local tax provisions, as the property tax provisions are not within the scope of administration by the Board.

ANALYSIS

Current Law

The Sales and Use Taxes Law (commencing with Section 6001 of the Revenue and Taxation Code), provides that a sales tax is imposed on retailers for the privilege of selling tangible personal property at retail. The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased from a retailer. Either the sales tax or the use tax applies with respect to all sales or purchases of tangible personal property, unless specifically exempted or excluded from the tax.

Currently, the statewide sales and use tax rate is 7.25 percent. Of the 7.25 percent base rate, 6 percent is the state portion and 1.25 percent is the local portion. However, beginning July 1, 2004, the state tax rate will increase by 0.25 percent, from 6 to 6.25 percent, and the local tax rate will decrease by 0.25 percent, from 1.25 to 1 percent. The revenues from the 0.25 percent state tax rate increase are to be deposited into the Fiscal Recovery Fund and dedicated to the repayment of the deficit bonds.

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code), authorizes a county to impose a local sales and use tax at a rate of 1.25 percent, and similarly authorizes a city to impose a local sales and use tax rate of 1 percent that is credited against the county rate. As previously stated, beginning July 1, 2004, existing law reduces by 0.25 percent the rate that may be imposed by a county from 1.25 to 1 percent, and by a city from 1 to 0.75 percent. Existing law also provides that this reduction in the local tax rate will be increased by 0.25 percent when the Department of Finance (DOF) has made a specified notification to the Board, pursuant to Section 99006 of the Government Code, that the \$15 billion bond has been repaid.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Proposed Law

This bill would add Article XIII E to the California Constitution, to, among other things, require statewide voter approval before any legislative measure that does any of the following could take effect:

- Restrict the authority of a local government to impose a rate, or change the method of distributing revenues under the Bradley-Burns Uniform Local Sales and Use Tax Law, as that law read on January 1, 2004.
- Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on March 3, 2004, the suspension of the authority of a city, county or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.
- Reduce, during the revenue exchange period in which the rate authority suspension is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on March 3, 2004.

This bill would become effective only if approved by a majority of the voters in a statewide election.

Background

"The fiscalization of land use" refers to the concept of examining land use decisions in the context of their revenue and expenditure consequences. Because Proposition 13 reduced the revenues that would be received from property taxes from any particular development (industrial, commercial, or residential), local jurisdictions began to pay even more attention to the fiscal outcomes of land use decisions, and those uses that generated revenues in addition to property taxes have been elevated in importance.

The decision by local governments to utilize land for retail sales in order to generate sales tax revenues is one example of the fiscalization of land use. Local governments have engaged in numerous activities to encourage retail activity in their jurisdiction, such as zoning excessively for retail, providing sales tax rebates to retailers who locate in their jurisdiction, waiving developer fees, and expediting the permit process.

This bill is intended to address, among other issues, the fierce competition that local entities are now facing in getting as much local (1.0%) sales and use tax revenue as they can.

In General

Several bills have been introduced in recent years related to local revenue restructuring:

Assembly Bill 1221 (Steinberg and Campbell, 2003-04), among its provisions, would have: (1) decreased the local sales and use tax rate imposed by a city from 1 percent to 0.50 percent; (2) decreased the local sales and use tax rate imposed by a county from 1.25 percent to 0.75 percent; (3) as of July 1 of the base fiscal year, as defined, increased the amount of property tax revenue allocated to a county by that county's or city's reimbursement amount, as defined, and correspondingly decrease the amount of property tax revenue allocated to a county's Educational Revenue Augmentation Fund (ERAF) by the countywide adjustment amount, as defined; and (4) allowed cities and counties to adjust their base fiscal year reimbursement amounts, as specified.

Assembly Constitutional Amendment 17 (Daucher, 2003-04), would have, among other things, authorized a city or a county to irrevocably elect to increase its property tax revenue by an amount equal to its local sales and use tax revenue attributable to a rate of 0.50 percent, and would have required that the county's ERAF be reduced by the same amount. The cities' and counties' local sales and use tax revenues attributable to a rate of 0.50 percent would be used to backfill the counties' ERAF.

Assembly Bill 680 (Steinberg, 2001-02), would have changed the allocation method of the 1 percent local sales tax in El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba counties.

Assembly Bill 2878 (Wiggins, 2001-02), would have modified the property tax allocation to a city or county, provide that a city may not impose a sales and use tax rate in excess of 0.85 percent except under specified circumstances, and prohibit the state from transferring money from the General Fund to cities and counties to fund vehicle license fee offsets.

Senate Bill 1982 (Alpert, 1999-2000), would have made legislative findings and declarations with respect to the fiscal difficulties of local governments, and declare the intent of the Legislature to address local government issues involving, among other things, property tax allocations, state-mandated local programs, and the consideration of all local government revenue sources in reforming the fiscal relationship between state and local governments.

Senate Bill 2000 (Polanco, 1999-2000), would have declared the intent of the Legislature with respect to local government delivering vital services, recommending land use policies, modifying the distribution of future local sales and use taxes, and improving the efficiency and effectiveness of government programs.

Senate Constitutional Amendment 18 (Alpert, 1999-2000), would have made findings and declarations with respect to the role of local governments in implementing programs and providing public services, the importance of the fiscal soundness of local governments, and the equitable distribution of local tax revenues.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the California State Association of Counties (CSAC), the League of California Cities (LCC), and the California Special Districts Association (CSDA). According to the sponsors, this measure is intended to increase local control over local tax dollars, so that funding for critical local services is more dependable and predictable. The CSAC, LCC, and CSDA are also in the final stages of gathering signatures to qualify a proposed initiative, entitled the Local Taxpayers and Public Safety Protection Act, for the November 2004 statewide ballot.

Senators Johnson and Torlakson have been leading workshops to explore the various local government proposals, discuss state-local fiscal reform, and find a legislative alternative to the proposed measures. To facilitate their effort and engender the broadest possible discussion, Senators Johnson and Torlakson agreed to jointly author this local government measure.

2. **Certain legislative measures affecting cities and counties would require statewide voter approval before taking effect.** This bill would require approval by a majority of the statewide electorate before any Legislative measure could take effect that would do the following: (1) reduce the local sales and use tax rate imposed by a city or county; (2) change the method of distributing local sales and use taxes (current local tax distribution method is situs-only basis or place of sale); (3) once the revenue exchange period has ended (also known as the “triple flip” period) continue to reduce the local sales and use tax rate imposed by a city or county; or (4) reduce property tax payments made to a city or county for purposes of reimbursing them for their local tax revenue losses from the 0.25 percent reduction in the local tax rate.
3. **Related legislation. SB 1774 (Johnson and Torlakson)** among its provisions, would: (1) increase the state sales and use tax rate by 0.25 percent; (2) provide that the revenues from the 0.25 percent increase in the state sales and use tax rate shall be deposited into the School Assistance Fund for Education (SAFE)-Sales and Use Tax Revenue Account that this bill creates; (3) decrease the local sales and use tax rate imposed by a city or a county by a 0.25 percent; and (4) provide that the property tax revenue allocated to each city and county shall be revenue protected, as specified. **SCA 22 (Johnson and Torlakson)** would enact the Local Government Property Tax Protection Act of 2004 to create a SAFE account in each county to receive revenues from specified state sales and use tax rates and revenues from vehicle license fees. This bill would specify that an act of the Legislature or Governor may not reduce the amount of monies that are required to be appropriated to county SAFE’s, unless that act makes a continuous appropriation in an amount equal to the reduction. **AB 3105 (Campbell and Steinberg)** is identical to SB 1774. **ACA 30 (Steinberg and Campbell)** is identical to SCA 22.

COST ESTIMATE

This bill does not result in costs to the Board.

REVENUE ESTIMATE

This bill would not affect state revenues.

Analysis prepared by:	Debra A. Waltz	916-324-1890	05/04/04
-----------------------	----------------	--------------	----------

Contact:	Margaret S. Shedd	916-322-2376
----------	-------------------	--------------

ls

SCA21-1dw

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.